



MEETING

The regular meeting of the Hayward Planning Commission was called to order at 7:30 p.m. by Chairperson Caveglia, followed by the Pledge of Allegiance.

ROLL CALL

Present: COMMISSIONERS Bogue, Halliday, Sacks, Thnay, Williams, Zermeno
CHAIRPERSON Caveglia
Absent: COMMISSIONER None

Staff Members Present: Anderly, Camire, Conneely, Garcia, Looney, Patenaude, Pearson

General Public Present: Approximately 23

PUBLIC COMMENT

There were no public comments. Chairperson Caveglia announced that item 2 has been continued at the request of the applicant.

AGENDA

1. **Request for Allocation of Park Dedication In-Lieu Fees to Renovate Playgrounds/Parks at Longwood, Mt. Eden, Nuestro Parkquécito, Spring Grove, Valle Vista, and Palma Ceia Parks and to expand Tennyson Park**
2. **Use Permit No. 01-160-09 - Sonja Azizian and Celedonio Rabello, Jr. (Applicant/Owner) dba American Cycle:** Request for a Use Permit for the Sale and Repair of Motorcycles within an Existing One-Story 3,100-Square-Foot Retail Building and Enclosed Yard at 22200-22206 Mission Boulevard, at the Southeast Corner with Simon Street, in a Central City-Commercial (CC-C) Subdistrict
3. **Use Permit No. 01-160-06 - Donald Boehm (Applicant/Owner):** Request to Amend the Conditions of Approval of Use Permit Application No. 00-160-06 to Allow Truck Access from Smalley Avenue - The Property is Located at 730 and 750 A Street, North Side, In a CC-C (Central City-Commercial) Subdistrict
4. **Variance Application No. 01-180-07 - Jorge & Melinda Alfaro (Applicants/Owners):** Request for a Living Room Addition 15 Feet From the Front Property Line (20 Feet Required); a Porch Addition 10 Feet From the Front Property Line (15 Feet Required); and to Add Square Footage to the House Without Providing the Required Two-Car Garage - The Property is Located at 346 Jerilynn Lane, a Part of the Santa Clara Neighborhood Plan Area in a Single-Family Residential (RS) District

PUBLIC HEARINGS

1. Request for Allocation of Park Dedication In-Lieu Fees to Renovate Playgrounds/Parks at Longwood, Mt. Eden, Nuestro Parkquecito, Spring Grove, Valle Vista, and Palma Ceia Parks and to expand Tennyson Park

Planning Manager Anderly discussed the purpose of the in-lieu park fees. She noted that the Hayward Area Recreation Department brings their requests to the City for use of those fees.

Chairperson Caveglia discussed discrepancies in the amounts. The recommended allocation amount was \$461,000. He then suggested next time that commissioners be provided a map accompanying the report to note where the parks are located.

Commissioner Sacks asked about Longwood and Palma Ceia Parks, which were listed under the subject heading. She was told that originally HARD requested allocations for each and subsequently removed them.

The public hearing opened at 7:39 p.m.

John Gilbertson, discussed the drug dealing at Longwood Park. He brought a map of the neighborhood. He commented on the lack of signal lights in the southern portion of the neighborhood and the discrimination by the City and HARD with the neighborhood. The residents are offended with how the City is handling the neighborhood. He noted that South Garden Avenue was declared the most violent street in the City. He asked that City, HARD, and the HUSD relocate Longwood Park to Longwood Avenue.

The public hearing closed at 7:46 p.m.

Planning Manager Anderly commented that HARD realized that the funds were not available for Longwood and Palma Ceia, and that they may have other resources.

Commissioner Halliday asked how the parks in the area are dealt with, with little or no building in the neighborhood.

Planning Manager Anderly commented that the City cannot take money from one area and put it into another.

Commissioner Bogue said it seems like there is a balance going on. It goes back and forth. He said he traveled to most of the parks and they are in really good shape overall, they maximize their areas. He stated that he was rather impressed.

Commissioner Williams asked how the in-lieu funds are handled. Whether there is a central location which stipulates what parks get the funds. He was told that HARD recommends an allocation plan and the City Council approves the dispersal of the funds.

Planning Manager Anderly added that the Commission has the opportunity to make its recommendation regarding the allocation plan to the City Council.



Commissioner Sacks **moved**, seconded by Commissioner Halliday, to accept the recommendation.

Commissioner Sacks said she hoped that Valle Vista Park could be improved with this funding. She said she heard this park was in bad shape and it was really depressing to see how bad it was. She said she would be watching that one area particularly.

Commissioner Thnay requested that signs be installed directing people how to get to the parks at major intersections. He suggested more unique playground equipment be obtained. He cited his experience at the Dennis the Mennis Park in Monterey.

Commissioner Halliday spoke in support of the motion. She agreed with Commissioner Thnay and said the Park District should be more innovative. She wondered how areas where there is little development would be able to increase the low balance in the fund.

The motion passed unanimously.

Chairperson Caveglia said he was asked to find out why Item 3 was moved from the agenda. He was told that the request was made at the request of the applicant who needed more time to meet with the neighbors.

- 2. Use Permit No. 01-160-09 - Sonja Azizian and Celedonio Rabello, Jr. (Applicant/Owner) dba American Cycle:** Request for a Use Permit for the Sale and Repair of Motorcycles within an Existing One-Story 3,100-Square-Foot Retail Building and Enclosed Yard at 22200-22206 Mission Boulevard, at the Southeast Corner with Simon Street, in a Central City-Commercial (CC-C) Subdistrict

Associate Planner Camire presented the background and information on the Cycle Shop. She noted that it is located in an area of auto uses and has been there for a couple of years. The applicants believed it was permitted when they bought the property in good faith. She commented on the improvements requested by staff. She described the various conditions of approval. Staff requests that no test-drives be made in the adjacent Prospect Hill neighborhood. The owner says that customers are not permitted to test drive the motorcycles. However, mechanics test drive motorcycles using Mission Boulevard and the freeway. Opinion of staff this is a compatible use and will meet the guidelines with conditions. Staff recommended approval.

Chairperson Caveglia asked how long the current owners have had the business. He was told about 5-6 months.

The public hearing opened at 8:07 p.m.

Sonja Azizian, applicant, said she bought the business in good faith. The former owner

seemed to have all the paperwork and even discussed becoming partners with her. She noted that when the previous owner left, he cancelled some of his licenses. She said she applied for the correct licenses and wants to run a legitimate business in Hayward. She wondered about a grandfather clause regarding the pole sign. She called in an engineer to discuss the cost of the proposed wall. He described the amount of work that would need to be done and was not able to give her an estimate. She said she needs time to do this. Perhaps the Commission would allow her a year and half to meet the requirements. She added that she also needed further clarification on the Conditions. She called attention to an error in Condition 20, the hours of operation should be extended from Monday through *Friday*. Staff agreed to the error.

Dan Rush, Sergeant at Arms for the Central Labor Council, said he was impressed that this minority woman was willing to work in what is typically a man's business. He commented on the high overhead, which would make it difficult for her to fund all of the required conditions. He noted that Ms. Azizian had contacted him to find out ways to affiliate with the union. Her concerns are not only with the shop, but also with her employees. He added that he hoped the Commission would hear her concerns. He introduced a number of people in the audience who indicated they were there in support of this item.

Barbara Kennedy, resident of Hayward, said she patronizes the businesses. She noted that small businesses need all the help they can get to survive. She commented that 21 conditions on this small business might be too onerous. She said the City should encourage small businesses to thrive. She said she makes a point of patronizing small businesses within the City of Hayward.

Henry J. Fernandez, resident, said he, too, encouraged the Commission to support this small business.

The public hearing closed at 8:24 p.m.

Commissioner Halliday asked for a correction on condition 4, it should read, "Fluorescent colors and more than three colors are prohibited." She asked whether one of the various City loan programs might be available to help the applicant.

Planning Manager Anderly said she did not know but she would check.

Commissioner Sacks asked about the pole sign, and why it needed to come down.

Associate Planner Camire said the sign ordinance does not permit pole signs. She said when a Use Permit is applied for, staff is able to ask the applicant to remove the non-conforming sign.

Chairperson Caveglia commented that he has noticed a diminishing number of pole signs in the downtown area.

Commissioner Sacks said she noticed no sign on the south side of the building and the pole sign is easy to spot. She asked about the masonry wall required by Condition 6, and how it would work on a slope.

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Acting Principal Planner Patenaude said the lower portion of the wall would be engineered as a retaining wall.

Commissioner Bogue asked staff whether the applicant would be able to replace the pole sign with another sign, if it is removed. He was told that she could.

Commissioner Bogue said he would approve replacing the fence with tubular steel in the present location. It would look nice and not interfere with the driveway. It would also provide safety at night because it could be seen through.

Commissioner Williams expressed concern with Condition 9 and the requirement of a landscape architect for that amount of land. He also commented on the pole sign. He explained that he understood the rationale but wondered why changing ownership, but maintaining the same business, would require eliminating the sign.

Acting Principal Planner Patenaude noted that the previous tenant was operating without appropriate permits. He had started the process but then withdrew.

Commissioner Williams commented that as a small business operator, he empathized with the applicant. He told the applicant that it was unfortunate there was not full disclosure. He suggested that she should follow up on that.

Commissioner Thnay asked about the timing and whether, if the approval is granted, 18 months would be sufficient to work with the conditions.

Planning Manager Anderly noted that the Zoning Ordinance requires meeting the conditions before occupancy.

Commissioner Thnay then asked about the issue of the fence and whether the existing wooden wall would be sufficient.

Planning Manager Anderly observed that the Ordinance requires the masonry wall if the business is next to a residential area, unless there are reasons not to do it.

Commissioner Zermeño asked about condition 7, the 12' wide driveway. He was told that technically condition 7 is met.

Commissioner Zermeño **moved**, seconded by Commissioner Williams, to approve the application without conditions 7 and 8 and with an extension of 18 months.

Commissioner Sacks asked why remove condition 8.

Commissioner Zermeño responded that taking into account that the applicant is a small,

minority, woman business owner, the applicant needs all of the help she can get. He noted that the landscape buffer area would erode into the amount of area inside the back parking space and cut up the pavement. It would be pleasant but takes too much of the storage area space. He said he would like something to be done with landscaping and the applicant should work together with the City.

Commissioner Sacks expressed concern with the safety issue and moving the gate back but could not support removing condition 8.

Commissioner Bogue commented that he could understand that the moving of the fence might be a problem. He proposed an open tubular steel fence so that there would be more openness to the fence. He thought eliminating all the landscaping would be a problem. He also expressed concern about extending the conditions for 18 months. This is not fair to others. He asked to amend the motion to keep condition 8, keep the gate where it is now and redesign the fence as a more tubular steel style of fence.

Commissioner Zermeño said his intent was to get rid of condition 8 to eliminate the extra cost. He agreed to the tubular steel fence.

Commissioner Halliday said keeping the condition would leave 10 feet of landscaping inside the fence. She asked about the landscaping on Simon. Perhaps, there would not be a requirement for landscaping on that side.

Chairperson Caveglia suggested that perhaps staff and the applicant should work together to make these decisions. He noted that the motion says approve use permit with 18 months to comply.

Commissioner Williams asked why be so specific about the kind of gate.

Commissioner Bogue said he chose tubular so that it would be strong, but wider than a chain link, yet, light enough to move and allow openness.

Commissioner Thnay asked about the gate and keeping it where it is now to provide security. He questioned the need for a 10-foot landscaping setback. He suggested a 5-foot setback instead.

Commissioner Zermeño said he would accept this as a friendly amendment.

Commissioner Bogue said he would not be in favor of the 5-foot setback on Simon. He said he approved leaving the gate for security reasons and not for eliminating the landscaping.

Commissioner Sacks said she liked keeping gate where it is and changing 10-feet to 5-feet on Simon.

Commissioner Halliday asked about Condition 6. Wood fence and screening with vines. She then asked about the 5-foot landscaping buffer. She suggested that two trees be planted in the 5-foot buffer zone.



Planning Manager Anderly explained that the 5-foot buffer allows for vehicle circulation. It serves several purposes. It may have some value for the neighbors as a buffer and large trees would soften the affect of the commercial building as seen from Mission Boulevard.

Commissioner Halliday proposed an amendment in condition 8 to eliminate the requirement for a "5-foot landscape buffer including shrubs." This was accepted.

Commissioner Bogue commented that trees are more important than shrubbery on the rear line.

Acting Principal Planner Patenaude suggested that tree pockets be added instead of a strip. Commissioner Halliday agreed that this is what she had in mind.

Planning Manager Anderly noted that it relates to the species. With larger trees, there wouldn't need to be so many.

Commissioner Thnay suggested trying to preserve adequate standards of the area. His suggestion was for a 5' setback, if the intent of the 10' setback is not there anymore.

Chairperson Caveglia asked for a vote. The **motion passed unanimously.**

3. **Use Permit No. 01-160-06 – Donald Boehm (Applicant/Owner):** Request to Amend the Conditions of Approval of Use Permit Application No. 00-160-06 to Allow Truck Access from Smalley Avenue – The Property is Located at 730 and 750 A Street, North Side, In a CC-C (Central City-Commercial) Subdistrict

Continued until a future date.

4. **Variance Application No. 01-180-07 – Jorge & Melinda Alfaro (Applicants/Owners):** Request for a Living Room Addition 15 Feet From the Front Property Line (20 Feet Required); a Porch Addition 10 Feet From the Front Property Line (15 Feet Required); and to Add Square Footage to the House Without Providing the Required Two-Car Garage – The Property is Located at 346 Jerilynn Lane, a Part of the Santa Clara Neighborhood Plan Area in a Single-Family Residential (RS) District

Associate Planner Pearson described the property and the variance requests. He noted that the findings wouldn't support the request. He stated that the zoning requirements ask for a two-car garage when more than 50 percent of the house is enlarged beyond the original house size. He noted that the property has room in the rear for an addition but they would still need to provide a two-car garage. He indicated that staff feels that special findings can be met.

Chairperson Caveglia asked about the applicant's letter, which states that Associate Planner Pearson indicated there would be no problem with the addition. He noted that he had no recollection of Ms. Alfaro coming into the office.

Commissioner Zermeno asked whether this is a real porch or is it decorative. He was told it was mostly decorative.

Commissioner Halliday commented on the photographs of neighboring houses and their lack of garages. She was told many of them might have converted their garages to living areas.

Planning Manager Anderly indicated that the parking requirement was added within the past five-years. She added that before this application was made, at least two planners and she advised the applicant that it would not be supported by staff.

Commissioner Williams asked what the real issue is.

Associate Planner Pearson stated that staff feels there are no legal findings for the variances.

Commissioner Williams asked about enlarging the property when even with the current owners, there would still be a parking issue.

Associate Planner Pearson noted that larger homes generally meant more people with more cars.

Commissioner Sacks asked for a clarification noting that 10 years ago, the City operated one way and some new rules went into effect.

Planning Manager Anderly commented that a previous City Attorney interpreted the zoning ordinance in one way. Since then the law has been codified so that a double-car garage is necessary in this instance, with the proposed size of the house.

Commissioner Thnay commented that the parking is so small. The homes are so far back. Parking is an issue. If we intend to change the requirement of two parking spaces, the City needs to address this problem. For people to expand their homes, this is an enhancement to the City. It's a housing issue that maybe should not apply. He noted that the house would not be huge even with the extension. It is a wide street for parking on both sides. He commented that perhaps, people should have closer setbacks to the street. Planning Manager Anderly indicated that it is a policy issue to be settled outside this hearing.

Commissioner Halliday asked about the need for the 2-car garage, because of the previous additions to the house, and whether the covered rear porch is considered, under the law, an increase in the living space in the dwelling. She was told that it was an increase to the size of the house.

Commissioner Zermeno asked whether this porch area is a sleeping space. He was told it was not.

The public hearing opened at 9:32 p.m.

Melinda Alfaro said she applied for the variance in March. She noted that she was told there

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was no problem with the addition. They then developed plans and applied for a \$60,000 loan for the expansion. She noted that her neighbors have done variation of what she is applying to do. She commented that the back porch area is not a living area. It is not enclosed on the sides, only on the top. She commented that the present living room is 12x21 feet. It is not wide enough to be roomy enough. She expressed her frustration with the process and asked for Commission support. She described her neighborhood and the number of houses that have been improved in this way. She noted that every winter, with the flat roof, they have to get up there and sweep the water off the roof. She said they do not have the money to move. They are hoping to retire to this house. She said the neighbors are supportive of the idea of the remodel. They are equally concerned with having to go through this same process.

Commissioner Thnay commented that the design looks great. He asked whether it would be possible to wait until, at some future date, the rules might change.

Ms. Alfaro explained they would like to do this now. If they do the work on the roof, they might as well do it all at one time.

Commissioner Williams asked about her conversation with Mr. Pearson. He commented that the information they received they relied on to begin their loan process and all. He noted that the policy issues are dependent upon the current elected officials. He commented on how they calculated the living area.

Ms. Alfaro noted again that this back patio area is not a living space. It is simply a covered area with open sides. She keeps plants there.

Acting Principal Planner Patenaude referred to the current Parking Ordinance referring to "cumulative additions to a single-family building...increase the original floor area by 50 percent." He noted that the patio could be included by two definitions. One is the definition of structure. Under lot coverage, the area enclosed by exterior walls or similar roof supporting devices.

Commissioner Williams then commented to the applicant that what they are asking is not an awful lot, but we have to change things first. He noted that he did empathize with the applicant.

Commissioner Halliday asked the applicant regarding the porch and whether a modification could be made to keep to the 15-foot setback so there is no further encroachment by the porch.

Ms. Alfaro said she was totally flexible on the porch. She just really wanted her extension.

The public hearing closed at 9:54 p.m.

Commissioner Sacks moved to accept the staff recommendation and deny the variance. It

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failed for lack of second.

Commissioner Sacks said she spoke with the applicant. It is in established neighborhood. These are small homes on small lots. They were built as starter homes for young couples and never intended to contain big families or extended families. As a result, they did not provide a lot of parking. This is not an application for improvement but enlargement. She commented that the applicant could improve the property without enlarging it.

Chairperson Caveglia stated that the Commission could easily make findings. There are many houses in the neighborhood that have had similar changes and they exist. The original design of the house, and the plot size of the land constitute a condition for granting a variance. Commissioner Williams agreed to **move**, seconded by Commissioner Halliday, to approve the application based on these findings for approval. Staff was also asked to come back with findings for approval.

Commissioner Halliday noted that this is an issue being discussed in the General Plan. There should be more flexibility in our older neighborhoods. She really wanted to approve this variance. The overall intent is a great improvement. The more attractive homes in the neighborhood are the ones that have been improved.

Commissioner Zermeno commented that they have given the go-ahead to several other homeowners for variances. The Commission should be more flexible so homeowners do not have to move out to keep their homes.

Commissioner Thnay said he also is glad for the motion. He suggested going easier on the staff for any possible errors they might make. They deal with hundreds of people a day. He asked for an amendment, to move the porch back into the 15-foot setback. What you have proposed is nice but because the bulk would be closer to the street, he suggested planting more trees. Commissioner Halliday seconded the motion for an amendment.

Commissioner Halliday suggested that to approve the living room with a 15-foot setback is not at all inconsistent to what others in this neighborhood have done.

Commissioner Bogue asked about adding another amendment to the landscaping plan. He commented that encroaching on the setbacks affects the streetscape. Holding the front door back creates an interesting affect with the wall. The applicant mentioned that this addition would add to the stability, beauty and enhancement of the neighborhood. Commissioner Bogue added that his impression that the rear porch was not a living space. However, the front yard setbacks are encroachment. He asked for a further condition to be included requiring that the rear porch not be enclosed without a variance from the Commission.

Commissioner Thnay said he could live with that.

Commissioner Williams asked about the amendment and the landscape, he then asked what the setback for the porch would be.

Commissioner Thnay said there would be no porch.



Commissioner Sacks reiterated her concern that improvements could be made, but she could not support enlarging the house.

Commissioner Halliday noted that the front has to be broken up with the front door setback.

Commissioner Thnay said this should be deferred to staff to determine.

Commissioner Zermeño said he liked the motion but not the amendments.

Acting Principal Planner Patenaude suggested that if the setback were approved at 15-feet the house would still have an overhang that will cover the front entryway.

The amendment failed by the following vote:

AYES:	COMMISSIONERS Bogue, Thnay
NOES:	COMMISSIONER Halliday, Sacks, Williams, Zermeño CHAIRPERSON Caveglia
ABSENT:	None
ABSTAIN:	None

The motion to grant the variance with findings to approve, passed by the following vote:

AYES:	COMMISSIONERS Bogue, Thnay, Halliday, Williams, Zermeño CHAIRPERSON Caveglia
NOES:	COMMISSIONER Sacks, Bogue
ABSENT:	None
ABSTAIN:	None

ADDITIONAL MATTERS

5. Oral Report on Planning and Zoning Matters

There were no oral reports.

6. Commissioners' Announcements, Referrals

Commissioner Bogue commented on the amount of advertising done by Buffalo Bill's to promote the street parties. He said this one was very well attended despite the heat. He invited everyone to come out to the next party as well.

ADJOURNMENT

The meeting was adjourned by Chairperson Caveglia at 10:24 p.m.

APPROVED:

Ed Bogue, Secretary
Planning Commission

ATTEST:

Edith Looney
Commission Secretary